

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

SAMUEL TROICE, HORACIO MENDEZ, §
ANNALISA MENDEZ, and §
PUNGA PUNGA FINANCIAL, LTD., §
individually and on behalf of a class of all §
others similarly situated, §

Plaintiffs, §

vs. §

PROSKAUER ROSE, LLP, §
THOMAS V. SJOBLUM, §
P. MAURICIO ALVARADO, and §
CHADBOURNE & PARKE, LLP, §

Defendants. §

CIVIL ACTION NO. 3:09-CV-1600-N
Hon. David C. Godbey

**DEFENDANTS' REPLY IN FURTHER SUPPORT OF THEIR MOTION FOR
LEAVE TO FILE NOTICE OF SUPPLEMENTAL AUTHORITY IN FURTHER
SUPPORT OF THEIR MOTIONS TO DISMISS PLAINTIFFS'
SECOND AMENDED CLASS ACTION COMPLAINT**

Defendants Proskauer Rose LLP ("Proskauer"), Chadbourne & Parke LLP
("Chadbourne"), and Thomas V. Sjoblom ("Sjoblom") (collectively, "defendants")
respectfully submit this reply in further support of their Motion for Leave to File Notice
of Supplemental Authority in Further Support of Their Motions to Dismiss Plaintiffs'
Second Amended Class Action Complaint (the "Motion," Doc. 134).

1. Plaintiffs will suffer no prejudice if the Motion is granted, and do not purport to
identify any such prejudice in their response. Because defendants already have submitted
their proposed Notice (Doc. 134, Ex. A), granting the Motion would not result in any
delay. Further, plaintiffs have had defendants' proposed Notice for more than three
weeks. We assume that any response they wish to make could be filed expeditiously.

2. Contrary to plaintiffs' assertion, the issues and authorities addressed by the Notice have not been "fully briefed" elsewhere. The Notice discusses cases that were decided after briefing on the motions to dismiss was completed. Plaintiffs note that some of these cases, concerning attorney immunity, were also referenced in defendants' April 18, 2014 Opposition to Plaintiffs' Motion to Defer Resolution of Motions to Dismiss (Doc. 131). But that submission did not contain a detailed discussion of those cases, and did not address the other issues and cases addressed in the Notice — including recent authority showing why plaintiffs' claims for aiding and abetting Texas Securities Act violations and for negligent retention/supervision are invalid. (*See* Doc. 134, Ex. A at 14-17.)

3. Plaintiffs' argument that there has been no "change in the law" since the motions to dismiss were filed only underscores why the proposed Notice should be accepted. The purpose of the Notice is to call to the Court's attention four years' worth of additional authority from Texas courts confirming that plaintiffs have failed to state a valid claim against defendants. That authority includes a recent decision of the Texas Supreme Court which addressed, as an issue of first impression, the legal standards applicable to "holder" claims — like those asserted by plaintiffs here — under the Texas Securities Act. (*Id.* at 14-15.) Defendants believe the case law discussed in the Notice is significant and worthy of the Court's consideration.

For the foregoing reasons and those set forth in the Motion, defendants respectfully request that the Motion be granted.

Dated: June 17, 2014

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on June 17, 2014, I electronically transmitted the foregoing document to all parties of record using the ECF system for filing.

/s/ Daniel J. Beller